

**REGULAR MEETING MINUTES  
CITY COMMISSION**

September 17, 2003

A **REGULAR MEETING** of the Winter Garden City Commission was called to order by Mayor Jack Quesinberry at 6:00 p.m. in City Hall Commission Chambers. The invocation and Pledge of Allegiance were given.

**PRESENT:** Mayor Jack Quesinberry, Commissioners Mildred Dixon, Theo Graham, John Harriman, and John Rees

**Also Present:** City Manager Hollis Holden, City Attorney Dykes Everett, Assistant City Attorney Lionel Rubio, Deputy City Clerk Nancy Williams, Assistant to the City Manager Marshall Robertson, Utilities Director Charlie Tinch, Finance Director Mike Bollhoefer, Public Works Director Bob Smith, Recreation Director Larry Caskey, City Planner Mark Cechman, Police Chief Jimmie Yawn

1. **SECOND PUBLIC HEARING AND READING OF PROPOSED ORDINANCES TO  
ADOPT A FINAL MILLAGE AND BUDGET FOR FISCAL YEAR 2003-2004**

A. **Ordinance 03-34:** **AN ORDINANCE LEVYING TAX UPON ALL TAXABLE PROPERTY WITHIN THE CITY OF WINTER GARDEN, FLORIDA, FOR THE TAX YEAR BEGINNING ON OCTOBER 1, 2003 AND ENDING SEPTEMBER 30, 2004**

City Attorney Everett read Ordinance 03-34 by title only. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Harriman to approve Ordinance 03-34. Seconded by Commissioner Rees.** Finance Director Bollhoefer read Section 1 of the Ordinance for the record: *The City Commission of the City of Winter Garden hereby adopts, establishes and levies a millage rate for ad valorem taxation of real and tangible personal property within the City of Winter Garden for the Fiscal Year beginning October 1, 2003 and ending on September 30, 2004, at the rate of 4.3040 mills (\$4.3040 for every \$1,000 of assessed valuation) upon the assessed valuation of property within the corporate limits of the City of Winter Garden, Florida. This millage rate exceeds the rolled back rate of 3.9960 mills by 7.71 percent. Carried unanimously 5-0.*

B. **Ordinance 03-35:** **AN ORDINANCE APPROPRIATING AND ALLOCATING ALL REVENUE AND FUNDS OF THE CITY OF WINTER GARDEN, FLORIDA, FOR THE TAX YEAR BEGINNING ON OCTOBER 1, 2003 AND ENDING ON SEPTEMBER 30, 2004**

City Attorney Everett read Ordinance 03-35 by title only. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Rees to approve Ordinance 03-35. Seconded by Commissioner Harriman and carried unanimously 5-0.**

- C. **Ordinance 03-36: AN ORDINANCE APPROPRIATING AND ALLOCATING ALL REVENUE AND FUNDS OF THE COMMUNITY REDEVELOPMENT AGENCY (CRA) OF THE CITY OF WINTER GARDEN, FLORIDA, FOR THE TAX YEAR BEGINNING ON OCTOBER 1, 2003 AND ENDING ON SEPTEMBER 30, 2004**

City Attorney Everett read Ordinance 03-36 by title only. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Harriman to approve Ordinance 03-36. Seconded by Commissioner Rees and carried unanimously 5-0.**

- D. **Ordinance 03-37: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, AUTHORIZING THE APPROPRIATIONS OF CITY FUNDS FOR FISCAL YEAR 2003-04 IN ACCORDANCE WITH ARTICLE 3, SECTION 30.4 OF THE CITY CHARTER AND FLORIDA STATUTE 166.241 FOR THE PURPOSE OF FULFILLING THE FINANCIAL OBLIGATIONS OF THE CITY**

City Attorney Everett read Ordinance 03-37 by title only. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Rees to approve Ordinance 03-37. Seconded by Commissioner Harriman and carried unanimously 5-0.**

2. **APPROVAL OF MINUTES**

Budget Workshop and Regular Meeting Minutes of August 28, 2003 and Regular Meeting Minutes of September 3, 2003. **Motion by Commissioner Harriman to approve the minutes as submitted. Seconded by Commissioner Graham and carried unanimously 5-0.**

3. **REGULAR BUSINESS**

- A. **Recommendation to approve Operating Agreement and Agreement for Sale and Purchase for Railroad Museum at 101 South Boyd Street**

City Manager Holden stated that the Agreements establish the terms discussed at previous meetings. **Motion by Commissioner Dixon to approve the Agreements for the Railroad Museum as presented. Seconded by Commissioner Harriman and carried unanimously 5-0.**

- B. **Recommendation to approve acquisition of the Railroad Museum at 101 South Boyd Street**

City Manager Holden stated the acquisition of the museum for maintenance purposes is recommended by staff. **Motion by Commissioner Dixon to approve acquisition of the Railroad Museum. Seconded by Commissioner Harriman and carried unanimously 5-0.**

- C. **Recommendation to accept property located at 750 Klondike Street as settlement for Code Enforcement Case #02-1136**

City Manager Holden stated that the City has been mowing and maintaining the property for several years. Mr. Holden asked the owner if he would donate the property to the City to satisfy a code enforcement fine of \$720 and the owner agreed. The property can be used for parks and recreation space or as additional Maxey Center parking. **Motion by Commissioner Graham to approve acceptance of the Quit-Claim Deed to satisfy the code enforcement lien. Seconded by Commissioner Harriman and carried unanimously 5-0.**

**D. Request to approve closing Plant Street for Centennial Celebration event**

The Centennial Celebration Cook-Off and Art Contest necessitate closing Plant Street from Lakeview Avenue to Main Street from 12 noon until 5:00 p.m. on Saturday, September 27, 2003. **Motion by Commissioner Rees to approve the street closing. Seconded by Commissioner Harriman and carried unanimously 5-0.**

The meeting was adjourned at 6:15 p.m. to allow the public hearing of ordinances to be held at 6:30 p.m. as advertised. The meeting reconvened at 6:30 p.m.

**4. SECOND READING AND PUBLIC HEARING OF PROPOSED ORDINANCES**

**A. Ordinance 03-28: AN ORDINANCE AMENDING THE FUTURE LAND USE MAP OF WINTER GARDEN'S COMPREHENSIVE PLAN BY INCLUDING PROPERTY GENERALLY DESCRIBED AS 9.5 ACRES OF LAND LOCATED AT 607 AVALON ROAD AS CITY LOW DENSITY RESIDENTIAL; PROVIDING FOR AN EFFECTIVE DATE**

City Attorney Everett read Ordinance 03-28 by title only. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Harriman to approve Ordinance 03-28. Seconded by Commissioner Rees and carried unanimously 5-0.**

**B. Ordinance 03-29: AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING A 9.5 ACRE LOT LOCATED AT 607 AVALON ROAD MORE SPECIFICALLY DESCRIBED HEREIN FROM ORANGE COUNTY A-1 TO CITY R-1; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE**

City Attorney Everett read Ordinance 03-29 by title only. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Rees to approve Ordinance 03-29. Seconded by Commissioner Harriman and carried unanimously 5-0.**

**C. Ordinance 03-33: AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING ORDINANCE 03-27 FOR ADDITIONAL HOMESTEAD EXEMPTION FOR PERSONS AGE 65 OR OLDER; BY DELETING SECTION 6. APPLICABILITY TO THE DEPENDENT SPECIAL DISTRICTS AND MSTUs; PROVIDING FOR SEVERABILITY; CODIFICATION AND AN EFFECTIVE DATE**

City Attorney Everett read Ordinance 03-33 by title only. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Dixon to approve Ordinance 03-33. Seconded by Commissioner Harriman and carried unanimously 5-0.**

- D. **Ordinance 03-30: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING CHAPTER 118 ("ZONING") OF THE WINTER GARDEN CODE OF ORDINANCES, SAID CHAPTER BEING PART OF THE CITY OF WINTER GARDEN LAND DEVELOPMENT CODE, BY CREATING AND ADOPTING UNDER CHAPTER 118, ARTICLE IX, TO BE ENTITLED "WEST STATE ROAD 50 OVERLAY COMMERCIAL DEVELOPMENT STANDARDS"; PROVIDING FOR UNIFORM STANDARDS AND REGULATIONS FOR NEW DEVELOPMENT AND PROPERTIES WHICH UNDERGO SUBSTANTIAL MODIFICATION WITHIN A SPECIFICALLY DESCRIBED AREA OF STATE ROAD 50 WITHIN THE JURISDICTION OF THE CITY OF WINTER GARDEN, FLORIDA; PROVIDING FOR EXEMPTED SIGNS; PROVIDING FOR AMENDMENT OF THE OFFICIAL ZONING MAP; PROVIDING FOR THE ADOPTION OF DESIGN STANDARDS; PROVIDING FOR CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE**

City Attorney Everett read Ordinance 03-30 by title only. Mayor Quesinberry opened the public hearing.

City Planner Cechman stated that numerous workshops have been held, a reputable consultant has been hired, and staff recommends approval of the ordinance.

**Mr. Dean Cannon**, Esq., Gray, Harris, & Robinson, 301 E. Pine Street, Suite 1400, Orlando, Florida, stated that he represents a group of property owners who are strongly opposed to approval of this ordinance. He believes the ordinance will make redevelopment impossible, as the financial burden will be too high and developers will go elsewhere with their projects. None of the buildings which currently exist meet the ordinance's requirements. The City of Ocoee has spent many man-hours to issue variances on their overlay ordinance and he believes the City of Winter Garden can avoid the same result. He suggested (1) doing a CRA to do a blight study and (2) waiting for the Department of Transportation to complete their road improvements. He handed a copy of Orange County's ordinance to the Commission, and strongly suggested they not approve the ordinance at this time.

**Mr. Doug Doudney**, 824 N. Highland, Orlando, Florida, quoted Thomas Jefferson regarding private property rights versus government police power and suggested the ordinance represents micromanagement by the City, requiring private property owners to provide public benefit in the form of beautification.

**Mr. Bill Curtis**, Esq., 2963 DuPont Avenue, Suite 3, Jacksonville, Florida, stated that the "act of God" clause affects reconstruction and renders the grandfather clause useless. He

believes the FDOT should bear all costs, not the property owners, and suggested the City will incur legal fees.

**Ms. Shirley Smith**, 12900 W. Colonial Drive, Winter Garden, Florida, spoke about the sentimental aspect of the issue, saying that most of the affected business owners are long-time residents who feel a very strong personal attachment to their properties and fellow business owners. She believes the City may qualify for a CRA. She stated that there are six different overlays between Clermont and Pine Hills, and adding yet another will not be an improvement.

**Ms. Kimberly Rose**, 22 ½ W. Vining Street, Winter Garden, Florida, stated that only one workshop was held, and she doesn't believe citizens should be responsible for developing alternate plans; that should be the work of City staff. She believes the City is not about developers, it's about the people of the community.

**Mr. Glenn Joiner**, 13202 W. Colonial Drive, Winter Garden, Florida, suggested the Commission vote no, as the ordinance will not make the overlay uniform with other cities. He recommended staff take the time to do further research and not make the same mistake the City of Ocoee made. He requested postponement until State Road 50 is redone.

**Mr. Don McNamara**, 13906 W. Colonial Drive, Winter Garden, Florida, said his existing signage should be acceptable; it was when he put it up. He asked why Publix was not forced to build a wall. He stated he requested and paid for annexation 20 years ago.

**Mr. Philip Van Winkle**, 14100 W. Colonial Drive, Winter Garden, Florida, said his new facility, built only three years ago, is already obsolete. He has spent over \$100,000 and is ready to walk away from his business.

**Mr. Derek Blakeslee**, 230 N. Highland Avenue, Winter Garden, Florida, stated that the overlay issue needs to move forward. He added that Honda chose to build in Oakland at a cost of \$500,000.

**Mr. Jerry Chicone**, 12605 Lake Butler Road, Windermere, Florida, stated that both sides want to do what's best for Winter Garden. He asked if variances would be available if the ordinance were approved; City Manager Holden answered yes. Since property owners will be able to sell at enhanced value, Mr. Chicone said he encourages the Commission's approval with the caveat that change will be possible in the future.

City Manager Holden suggested that interested parties talk to City of Ocoee staff about the boundaries of their CRA. He also assured those present that staff is committed to examination of the ordinance on a continuing basis. He stated he received three faxes, all identical text but with three different signatures, and provided copies as required for the record.

Hearing no other comments, Mayor Quesinberry closed the public hearing.

**Motion by Commissioner Harriman to approve Ordinance 03-30. Seconded by Mayor Quesinberry.** Commissioner Rees asked about the “act of God” clause. City Attorney Everett stated there is no specific clause but that the Commission can make a motion for an amendment, which would have to be substantive and advertised. Commissioner Graham said he would like to see the clause included. City Manager Holden said if the Commission passes the ordinance, staff can bring an amendment before the Commission to include the clause. **Motion carried unanimously 5-0.**

**Motion by Commissioner Graham to direct the City Manager to bring an amendment to the Commission to include the “act of God” clause to Ordinance 03-30. Seconded by Commissioner Rees and carried unanimously 5-0.** City Manager Holden will bring the amendment to the second meeting in October.

5. **MATTERS OF CONCERN FROM CITIZENS:** None
6. **MATTERS FROM CITY ATTORNEY DYKES EVERETT:** None
7. **MATTERS FROM CITY MANAGER HOLLIS HOLDEN:**

Financials for August, 2003 have been distributed. He reminded the Commission of the Legislative Luncheon scheduled for Wednesday, September 24<sup>th</sup>, at Stoneybrook Towne Center.

8. **MATTERS FROM MAYOR AND COMMISSIONERS:**

**Commissioner Graham:**

Stated he was advised that Calvary Baptist Church’s football team was denied permission to use a City sports field and asked for reconsideration. City Manager Holden said the dilemma is that of 90 churches in west Orange County, 70 of them are in Winter Garden; accommodating the needs of all of them is impossible. In addition, the principal of Calvary Baptist School wrote a letter to the West Orange Times about the issue without first discussing it with either the City Manager or Recreation Director Caskey. Finally, many of the requests for field use come from non-residents and no offer of payment is made. Commissioner Rees recommended reviewing the requests on a case-by-case basis.

**Commissioner Dixon:**

Said there are 21 people registered for Maxey Center's computer class and they may require a second teacher. She still needs \$5,000 for the midnight basketball program and will bring a proposal to the Commission requesting the funds.

**Commissioner Harriman:**

Said he will not approve the Mexican festival in the future. The noise was unacceptable, audible half a mile away, and he received many complaints.

**Mayor Quesinberry:**

Announced that Winter Garden beat Ocoee in the September 13<sup>th</sup> "Geezers" softball game.

The meeting was adjourned at 7:45 p.m.

Minutes prepared by Deputy City Clerk Nancy Williams